

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11909 OF 2016

Mrs. Kamala Kumar Narayan and ..Petitioners.
Ors.

Vs

Municipal Corporation of Greater .. Respondent
Mumbai

Mr. P. J. Thorat, Advocate for Petitioners.
Mr.Pradeep Patil, Advocate for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 19/01/2017

PC:

1. Not on Board. At the request of Mr.Thorat, taken up in for admission. Heard Mr.Pradeep Thorat, learned counsel for the petitioners and Mr.Patil, learned counsel for respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 18.4.2016 passed by the learned trial Judge dismissing the Notice of Motion taken out by them for leading secondary evidence.

3. Mr. Thorat submits that the petitioners have already produced original documents in the trial Court. Inadvertently, the plaintiff was not aware of this fact and, therefore, took out notice of motion for leading secondary evidence. As the original documents are in custody of the Court, he seeks permission to withdraw the Notice of Motion seeking permission to lead

secondary evidence. He submits that in case Registry is not in a position to locate original documents, liberty may be reserved to take out appropriate proceedings in the trial Court.

4. On the Motion made by Mr.Thorat, Notice of Motion is allowed to be withdrawn as prayed for. Grant of liberty should not be construed as an expression on merits on either way.

5. As the Motion is allowed to be withdrawn, this Petition does not survive and is disposed of accordingly.

(R.G.KETKAR, J.)